



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-----------------------|---------------------|------------------|
| 09/651,070 | 08/30/2000 | Scott Andrew Cummings | 108339-09030 | 1144 |

32294 7590 08/09/2004

SQUIRE, SANDERS & DEMPSEY L.L.P.
14TH FLOOR
8000 TOWERS CRESCENT
TYSONS CORNER, VA 22182

EXAMINER

BLOUNT, STEVEN

ART UNIT

PAPER NUMBER

2661

DATE MAILED: 08/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|------------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/651,070 | CUMMINGS, SCOTT ANDREW |
| | Examiner | Art Unit |
| | Steven Blount | 2661 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 May 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 - 39 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-18 and 29 - 39 is/are allowed.
- 6) Claim(s) 19 - 28 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 2. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 19, 20, and 26 - 28 are rejected under 35 U.S.C. 103(a) as being obvious over U.S. patent 6,678,248 to Haddock et al.

With regard to claim 19, note the flow modules 155, 170, 150, and 162 discussed above, bridging/routing module 145 discussed above, and queues/enqueues 161 and 162, and that while these members (155, 170, 150, and 162) may not specifically be labeled as "flow modules", since they affect the flow of the system, it would be obvious to one of ordinary skill in the art that they could be considered as such. With regard to claim 20, see the rejections above which discuss upstream and downstream flow modules. With regard to claim 26, note the rejections above, and member 161 can be considered to be a "bin module"; With regard to claims 27 – 28, see the rejections above.

3. Claims 21 – 25 are rejected under 35 U.S.C. 103(a) as being obvious over U.S. patent 6,678,248 to Haddock et al as applied above, and further in view of U.S. patent 6011775 to Bonomi et al.

With respect to claim 21, Haddock et al teaches the invention as described with respect to 19, but does not teach the use of sorting bins or the use of a token. These are taught in Bonomi et al. See the discussion of tokens in col 2 lines 50+, and the use

of bins as discussed in col 3 lines 15+. With respect to claims 22 – 23, see the rejections above. With respect to claim 24, the examiner takes Official Notice that the use of timer in this type of situation is well known in the art, and that reducing jitter is taught in Bonomi; with respect to claim 25, prioritization is taught in Haddock and Bonomi et al.

4. Claims 1 – 18 and 29 – 39 are allowed.

Response to Arguments

5. Applicant's arguments with respect to claims 1 – 18 and 29 - 39 have been considered but are moot in view of the fact that these claims are now allowed. Because the applicant has not set forth any arguments with respect to the rejections made regarding claims 19 – 28, this will be taken as an admission that these rejections are correct.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Application/Control Number: 09/651,070
Art Unit: 2661

Page 4

7. Steven Blount may be reached at 703-305-0319 Monday through Friday between the hours of 9:00 and 5:30.


Ajit Patel
Primary Examiner

SB

8/6/04